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November 2, 2000

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FEDERAL COMMUNICATIONS COMMISSION
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Magalie R. Salas, Esq.
Secretary
Federal Communications Commission
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445 12th Street, S.W.
Washington, D.C. 20554

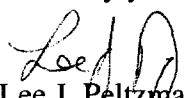
Re: MM Docket No. 00-87
RM-9870, 9961
Amendment to § 73.202(b)
Table of Allotments
FM Broadcast Stations
(Brightwood, Madras, Bend
and Pineville, Oregon)

Dear Ms. Salas:

Transmitted herewith, on behalf of Madras Broadcasting, is an original and four (4) copies of its Opposition to Motion to Strike in the above-referenced proceeding.

Should any questions arise concerning this submission, kindly communicate with the undersigned.

Sincerely yours,


Lee J. Peltzman
Counsel for
MADRAS BROADCASTING

Enclosure

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Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	MM Docket No. 00-87
Amendment to § 73.202(b))	RM-9870
Table of Allotments)	-9961
FM Broadcast Stations)	
(Brightwood, Madras, Bend)	
and Prineville, Oregon))	

To: Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

OPPOSITION TO MOTION
TO STRIKE

Madras Broadcasting ("Madras"), by its attorney, hereby opposes the Motion to Strike filed by Muddy Broadcasting Company ("MBC") on October 18, 2000. In support of its position, Madras submits the following:

The genesis of this proceeding is the Commission's issuance of a Notice of Proposed Rule Making in MM Docket No. 00-87, DA 00-1111, released May 19, 2000 (the "NPRM"), proposing the allotment of Channel 250C1 to the community of Brightwood, Oregon. The NPRM noted that interested parties could file Comments and Reply Comments with respect to the Brightwood proposal on July 10 and July 25, 2000, respectively. On July 10, 2000, Madras submitted a Counterproposal to the Brightwood proposal in which it requested that the Commission make channel substitutions to existing allotments at Bend and Pineville, Oregon and allot Channel 250C1 to the community of Madras, Oregon as a first local service. On July 25, 2000, MBC filed Reply Comments. Rather than limit its discussion to its Brightwood

proposal, MBC instead discussed the legitimacy of the Madras Counterproposal even though the Commission had not yet accepted it.¹ Comments on the Madras Counterproposal were also filed by Combined Communications, Inc., the Mt. Hood Area Chamber of Commerce, and Hoodland Fire District No. 74 (collectively, the “Other Commenters”).

The Commission issued a Public Notice, Report No. 2440, on September 20, 2000 accepting the Madras Counterproposal and inviting interested persons to file statements opposing or supporting the Counterproposal within 15 days. MBC submitted Reply Comments opposing the Madras Counterproposal and reiterating points made in its earlier pleading. Madras filed Reply Comments supporting its Counterproposal.

In its Motion to Strike, MBC argues that Madras has violated some unwritten Commission policy by discussing the earlier filed Reply Comments submitted by MBC and the Other Commenters. MBC cites no rule that Madras has allegedly violated nor does it cite any case precedent legally supporting its position.

MBC’s claim that Madras’ Reply Comments constitute a “thinly disguised surrebuttal to MBC’s Reply in Opposition to Counterproposal”² simply misses the mark. In fact, MBC’s Motion to Strike constitutes a not so thinly veiled effort to rebut substantive arguments contained in Madras’ Reply Comments. For example, MBC spends a good deal of its Motion to Strike discussing an engineering study contained in Madras’ Reply Comments, asserting that it contains technical errors.

MBC’s procedural arguments simply are not viable. It faults Madras for responding to Comments made with respect to its Counterproposal. Neither MBC nor the Other Commenters

¹ MBC acknowledges that its Reply Comments, filed July 25, 2000 “responded to the Madras Counterproposal.” MBC Motion to Strike at p. 2.

² MBC Motion to Strike at p. 1.

had any obligation to file Comments with respect to the Madras Counterproposal prior to release of the September 20, 2000 Public Notice. Despite this, they chose to discuss the Counterproposal. Madras can hardly be faulted for responding to that discussion in a pleading it was invited to file by the Commission's September 20, 2000 Public Notice. MBC may have preferred to have the Commission issue a gag order as to Madras so that only MBC's position with respect to the Counterproposal could be presented, however, that preference is neither countenanced under the Commission's rules and procedures nor under elementary notions of due process.

MBC claims that it has been denied an opportunity to respond to information contained in Madras' Reply Comments. Yet, that is exactly the result that MBC's Motion to Strike seeks to achieve by limiting Madras' opportunity to respond to attacks made by MBC in its July 25, 2000 Reply Comments. Throughout its Motion to Strike, MBC repeatedly asserts that Madras is guilty of exactly what MBC is attempting to do - - circumventing the Commission's rules and procedures while limiting Madras' opportunity to be heard.

MBC also attempts to fault Madras for comparing Madras and Brightwood as communities. Madras has at no time sought to challenge the community status of Brightwood. Rather, Madras compared the two communities and simply pointed out in doing so that MBC was incorrect in comparing Madras to a bunch of communities, collectively referred to as "Hoodland" instead of the community of Brightwood. Rather than arguing against the community status of Brightwood, Madras assumed that status in its comparison of Madras and Brightwood.³

³ MBC, for reasons known only to itself, has throughout this proceeding attempted to extrapolate from U.S. Census data those populations contained within Brightwood, Welches, and Rhododendron zip codes. Madras requested in its Reply Comments and requests again here that

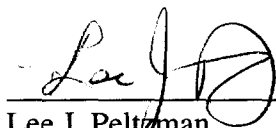
As noted, MBC attacks the engineering study provided by Madras, arguing that the Counterproposal site has line-of-sight problems with respect to coverage of the community of Madras.⁴ MBC's concerns are irrelevant. As the attached Engineering Comments make clear, there are several sets of coordinates from which a party can achieve line-of-sight while satisfying Section 73.207 of the Commission's rules. Moreover, the tower height that would be necessary for a party to achieve line-of-sight is reasonable (299 meters). Thus, contrary to MBC's concerns, Channel 251C1 can be allotted to Madras, Oregon consistent with the Commission's technical requirements.

In view of the above, Madras respectfully urges the Commission to deny the MBC Motion to Strike. Madras had offered a valid Counterproposal which deserves Commission review and approval.

Respectfully submitted,

MADRAS BROADCASTING

Shainis & Peltzman, Chartered
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202 293 0011

By: 
Lee J. Peltzman
Its Attorney

November 2, 2000

the Commission compare the licensable community which MBC proposes, Brightwood, not some conglomeration of communities based on zip codes. MBC's sensitivity to Brightwood's "community" status says more about its own belief or nonbelief in the legitimacy of its own proposal than it does about anything Madras has stated.

⁴ Given MBC's apparent belief that Madras' Reply Comments are procedurally defective and should be dismissed, it would seem unclear at first glance why it would spend one-half of its pleading considering an engineering argument made in what it contends is an "unauthorized pleading". However, upon further review, it is quite obvious that the entire reason for MBC's Motion to Strike is to provide it with an opportunity to make its engineering rebuttal.

ENGINEERING COMMENTS
IN RESPONSE TO THE
MOTION TO STRIKE
IN MM DOCKET 00-87, RM-9870, RM-9961
MADRAS BROADCASTING
NOVEMBER, 2000

On October 18, 2000, Muddy Broadcasting Company ("Muddy") filed a Motion to Strike against Madras Broadcasting ("Madras"). Among the reasons used for this Motion were some engineering concerns that Muddy had with line of sight issues raised in the pleading filed by Madras. The attached engineering exhibits seek to address those concerns.

In an attempt to allay Muddy's concerns over line of sight to Madras from the proposed allotment coordinates of channel 251C1, Madras seeks to amend its reference coordinates to a site that completely eliminates any doubt regarding line of sight into Madras. The proposed coordinates, while optimal, are not the only set of coordinates that can achieve line of sight while satisfying §73.207 of the Commission's Rules.

The attached engineering exhibits prove that a usable, technically compliant site exists for use by Madras Broadcasting on channel 251C1. This can be achieved with a minimal tower height above ground (299 meters). One of the concerns Muddy had raised was the tower height necessary for Madras to achieve line of sight from its previous allocation site. This modified site addresses those concerns.

Figure 1 shows the allocation study for the modified reference coordinates for AD251C1 at Madras, Oregon. Figure 2 addresses Muddy's concern that line of sight was

not possible for AD251C1 at its previous site. As this exhibit shows, Madras can have line of sight into Madras with a tower of realistic height for a class C1.

Figure 3 shows the coverage of Madras by a hypothetical class C1 70 dBu contour. Figure 4 is a portion of the USGS 7.5-minute quadrangle for Shaniko Summit, Oregon. This figure shows the modified allocation coordinates where Madras proposes to allot channel 251C1. Figure 5 shows the calculated field strength (FCC method) that a class C1 would produce at the reference coordinates for Madras from the modified allocation coordinates.

The analysis of the line of study herein is consistent with the Muddy proposal shown in our earlier filing. What Madras is the use of 7.5-minute topographic maps to determine elevation at the specific sites, with 3-arc second data used for the path between the sites.

This site modification, included with the attached engineering, proves that channel 251C1 can be allotted to Madras, Oregon in such a way that all the Commission's requirements are satisfied.

Conclusion

Madras Broadcasting has retained our firm (Reynolds Technical Associates) to conduct the engineering portion of this proceeding. We certify that the information contained herein is accurate to the best of our knowledge.

For Madras Broadcasting:

Lee S. Reynolds
Reynolds Technical Associates
2421 Presidents Drive, Suite B-23
Montgomery, AL 36116
(334) 323-3620

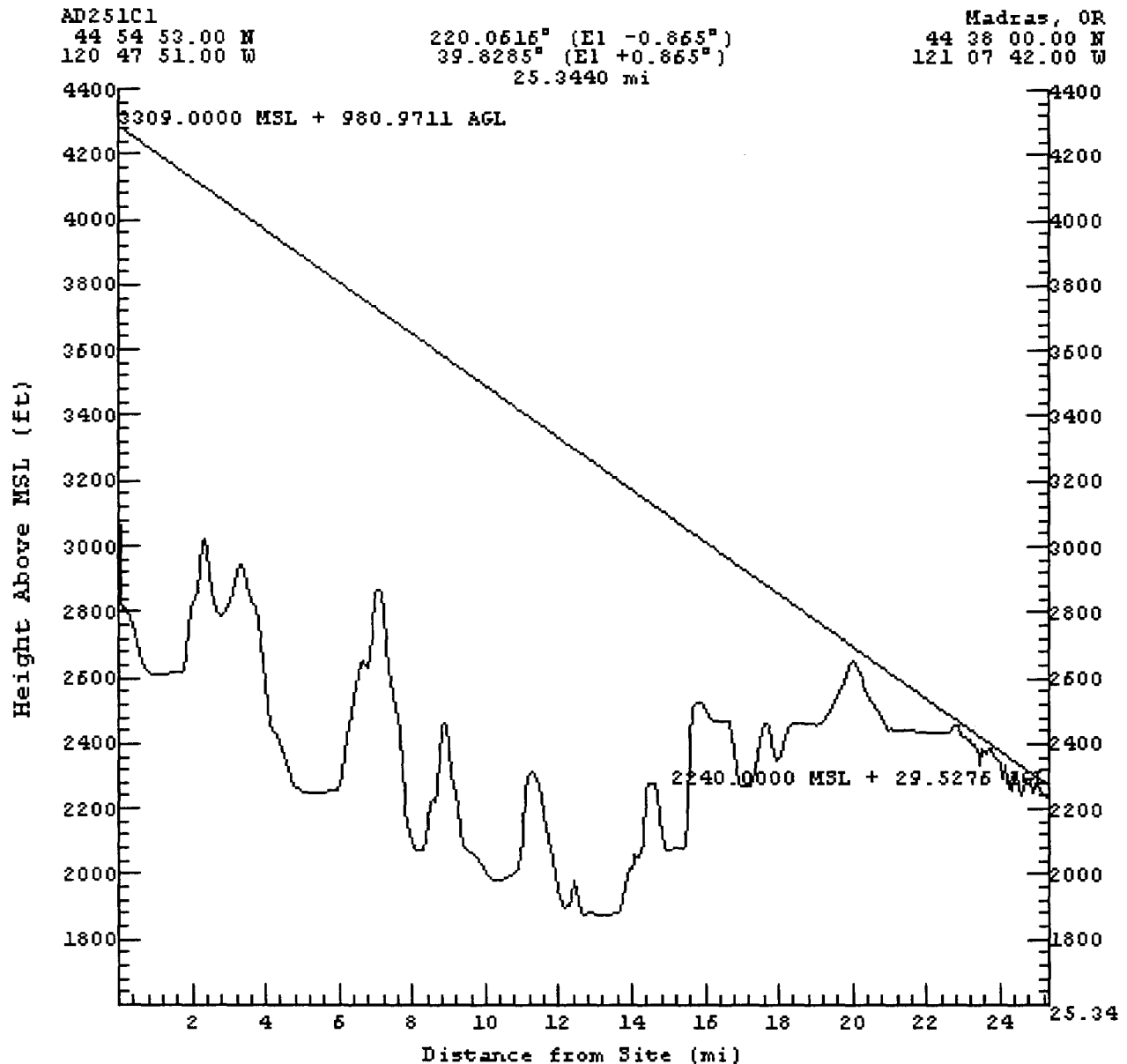
ALLOCATION STUDY FOR

FOR AD251C1, MADRAS, OREGON (MODIFIED SITE)

44 54 53 N. 120 47 51 W.			Class C1 Current rules spacings Channel 251 - 98.1 MHz				Search Date 11-02-00	
Call	Ch#	City	State	Bear'	Dist'	R'grd	Margin	
RADD	251C1	Madras	OR	164.2	9.34	245.0	-235.66 *	
RADD	251C3	Brightwood	OR	298.2	88.11	211.0	-122.89 *	
RDEL	252C3	Bend	OR	204.6	102.25	144.0	-41.75 *	
KTWS	252C3	Bend	OR	204.6	102.25	144.0	-41.75 *	
RDEL	254C3	Prineville	OR	178.7	76.66	76.0	0.66 *	
AVAC	254C3	Prineville	OR	178.7	76.66	76.0	0.66 *	
KKTT	250C	Eugene	OR	241.2	210.40	209.0	1.40 *	
KACIFM	249C2	The Dalles	OR	335.5	89.69	79.0	10.69	
KNLR	248C1	Bend	OR	204.5	102.26	82.0	20.26	
KEYW.C	252C2	Pasco	WA	44.6	182.26	158.0	24.26	
RADD	253C3	Bend	OR	204.6	102.25	76.0	26.25	
KINGFM	251C	Seattle	WA	342.5	301.80	270.0	31.80	
KINGFM	251C	Seattle	WA	340.9	309.12	270.0	39.12	
KUPLFM	253C	Portland	OR	293.5	149.90	105.0	44.90	

Figure 1

LINE OF SIGHT STUDY FOR MODIFIED SITE FOR AD251C1 MADRAS, OREGON



Site Elevation = 3309 feet (1008.6 meters)
Antenna AGL = 981 feet (299 meters)
Height Above Average Terrain (FCC Method) = 1294.3 feet (394.5 meters)
Elevation of Ref. Coords. of Madras, OR = 2240 feet (682.8 meters)

Figure 2

**HYPOTHETICAL CLASS C1 70 dBu CONTOUR
FOR AD251C1, MADRAS, OREGON**

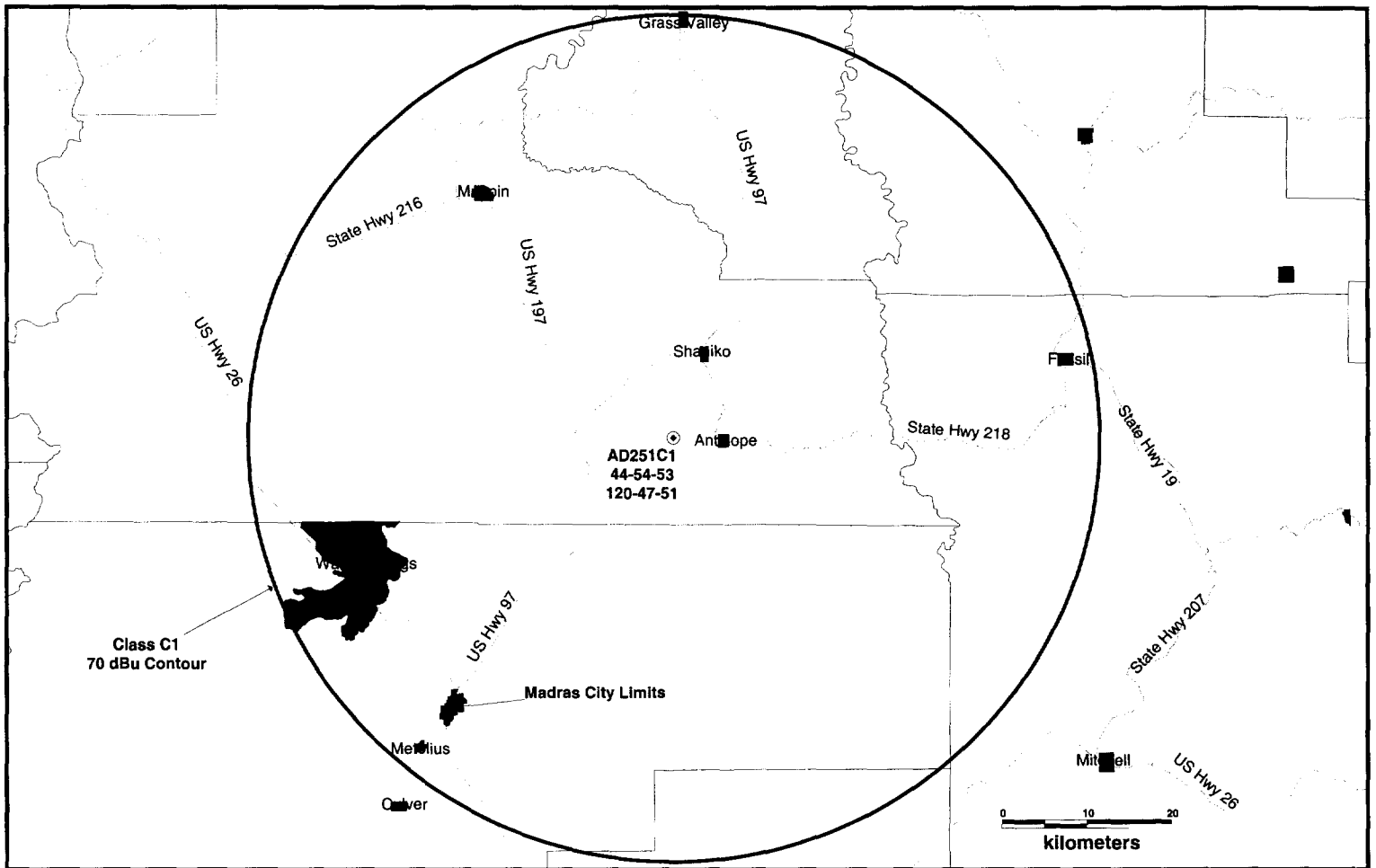


Figure 3

PORTION OF SHANIKO SUMMIT, OR USGS 7.5' TOPOGRAPHIC MAP
FOR AD251C1, MADRAS, OREGON
(SHOWING SITE ELEVATION AND FEASIBILITY OF PROPOSED SITE)

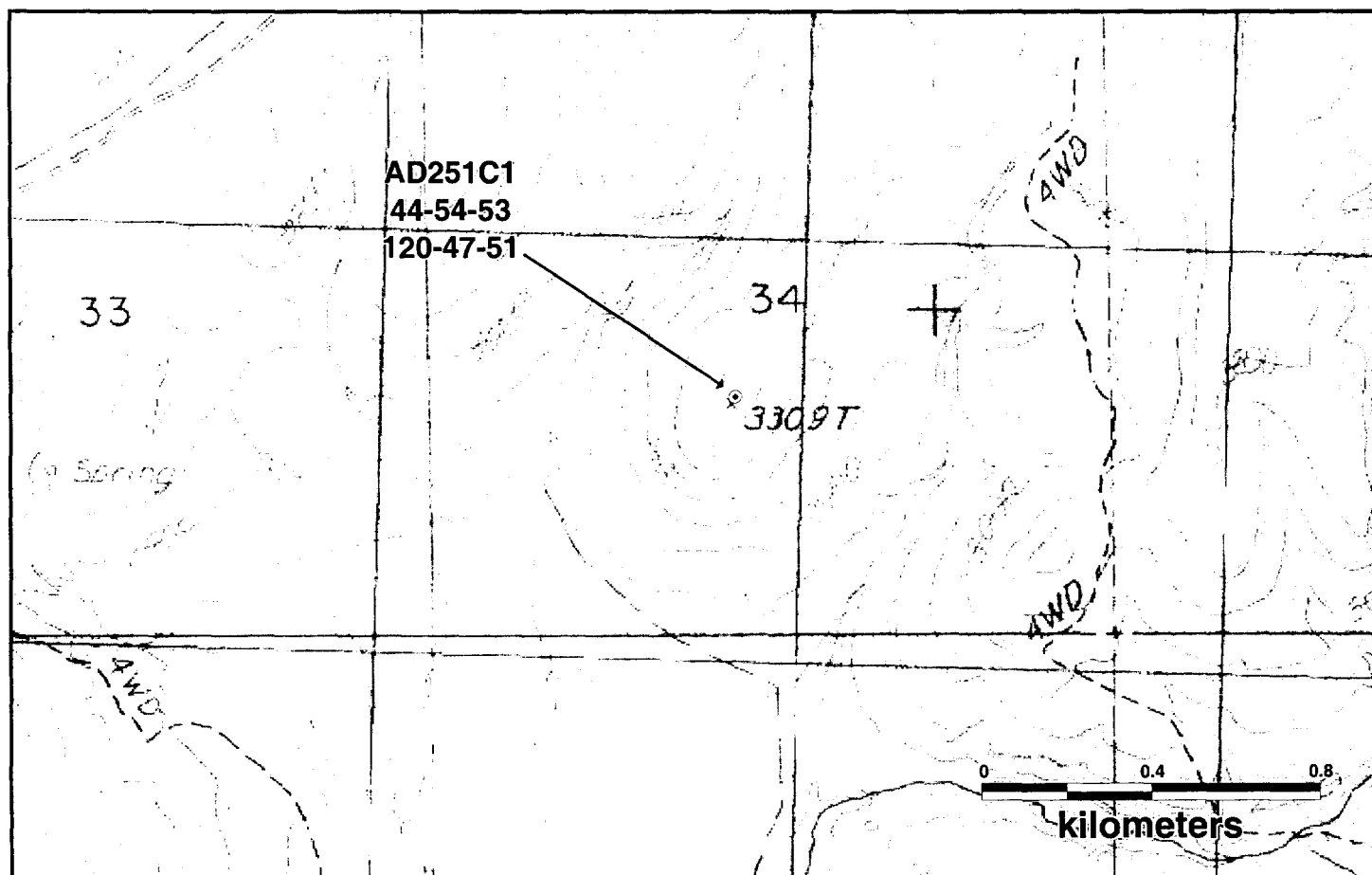


Figure 4

FCC F(50,50) FIELD STRENGTH VALUE
FOR AD251C1, MADRAS, OREGON AT THE MADRAS, OR
REFERENCE COORDINATES
(SHOWING RECEIVED SIGNAL LEVEL GREATER THAN 70 dBu)

TAP Single Point Field Study			
Azimuth:	220.06°	Path Length:	25.34 mi
		Reverse Az:	39.83°
<i>Predicted Transmission Loss Model</i>			
Template Description: <input style="width: 60%;" type="text"/>			
Propagation Model: Broadcast (Part 73)			
<i>Calculated Field</i>		<i>Results Parameters</i>	
<div style="padding: 5px;">Free Space Field (dBu): 91.79 Predicted Loss (dB): 13.47 Predicted Field (dBu): 78.31</div>		<div style="font-size: small;">TX Ant: 1307.60m MSL (299.00m AGL) ▲</div> <div style="font-size: small;">Channel 251; f(50,50); HAAT 567.76 m</div> <div style="font-size: small;">TX Antenna Gain: Az 0.00 dB; El 0.00 dB</div> <div style="font-size: small;">Free Space Field: (51.000 kW @ 25.344 mi)</div> <div style="font-size: small;">Free Space Loss: 100.21 dB (between dipoles)</div> <div style="font-size: small;">Additional Estimated Transmission Loss 13.47 c</div> <div style="font-size: small;">Net received field: 78.31 dBu ▼</div>	
		<i>Output</i>	
		<input type="checkbox"/> Print Parameters Report	
<i>Controls</i>			
			<div style="display: inline-block; border: 1px solid black; padding: 2px 10px;">Cancel</div> <div style="display: inline-block; border: 1px solid black; padding: 2px 10px; margin-left: 10px;">Close</div>

PREDICTED VALUE = 78.31 dBu

Figure 5

CERTIFICATE OF SERVICE

I, Dawn Hughes, in the law firm of Shainis & Peltzman, Chartered, hereby certify that on this 2nd day of November, 2000, copies of the foregoing document were sent via first-class United States Mail to the following:

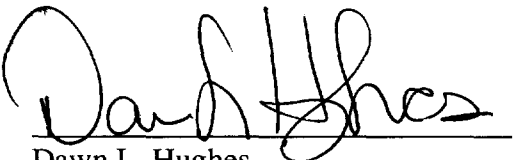
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Hoodland Fire District No. 74
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69634 East Highway 26
Welches, OR 97067-9600

Mt. Hood Area Chamber of Commerce
Attn: Kylie B. Milne
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Dawn L. Hughes